

Solicitor

TO:	Commissioner of Patents P.O. Box 1450 Alexandria, VA 22313-1450 or Commissioner of Trademarks P.O. Box 1451 Alexandria, VA 22313-1451	SOLICITOR JUL 24 2007 U.S. PATENT & TRADEMARK OFFICE	REPORT ON THE FILING OR DETERMINATION OF AN ACTION REGARDING A PATENT OR TRADEMARK
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In Compliance with 35 § 290 and/or 15 U.S.C. § 1116 you are hereby advised that a court action has been filed in the U.S. District Court Colorado on the following

DOCKET NO. 07-cv-01492-LTB-CBS	DATE FILED 7/16/2007	U.S. DISTRICT COURT FOR THE DISTRICT OF COLORADO
PLAINTIFF THE KONG COMPANY, LLC		DEFENDANT TRIPLE CROWN DOG ACADEMY, INC.
PATENT OR	DATE OF PATENT	HOLDER OF PATENT OR TRADEMARK
1 6,129,053		Please see copy of Complaint attached hereto
2 Re 39,563		
3		
4		
5		

In the above—entitled case, the following patent(s) have been included:

DATE INCLUDED	INCLUDED BY <input type="checkbox"/> Amendment <input type="checkbox"/> Answer <input type="checkbox"/> Cross Bill <input type="checkbox"/> Other Pleading		
PATENT OR	DATE OF PATENT OR TRADEMARK	HOLDER OF PATENT OR TRADEMARK	
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In the above—entitled case, the following decision has been rendered or judgement issued:

DECISION/JUDGEMENT

CLERK GREGORY C. LANGHAM	(BY) DEPUTY CLERK	DATE
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Copy 1—Upon initiation of action, mail this copy to Commissioner Copy 3—Upon termination of action, mail this copy to Commissioner
 Copy 2—Upon filing document adding patent(s), mail this copy to Commissioner Copy 4—Case file copy

FILED
U.S. DISTRICT COURT
DISTRICT OF COLORADO

2007 JUL 16 PM 3:01

GREGORY C. LANGHAM
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. **07-CV-01494 LTB-CBS**

The Kong Company, LLC
a Colorado limited liability company,

Plaintiff,

v.

Triple Crown Dog Academy, Inc.
a Texas corporation,

Defendant.

COMPLAINT WITH JURY DEMAND

The Kong Company, LLC ("Kong Company"), for its Complaint against Triple Crown Dog Academy, Inc. ("Triple Crown" or "Defendant") hereby states as follows:

I. THE PARTIES

1. Kong Company is a Colorado limited liability company, having its principal place of business at 16191-D Table Mountain Parkway, Golden, Colorado 80403.

2. Upon information and belief, Triple Crown is a Texas corporation having a place of business at 200 County Road 197, Hutto, Texas 78634.

II. JURISDICTION AND VENUE

3. This is an action for patent infringement arising under the Patent Laws of the United States, 35 U.S.C. § 101 *et seq.*

4. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1338.

5. Upon information and belief, Triple Crown is subject to personal jurisdiction in this judicial district, as Triple Crown conducts business within the judicial district, the activities giving rise to Kong Company's claims occurred in this judicial district, and Kong Company has been damaged in this judicial district by Triple Crown's tortious conduct.

6. Upon information and belief, venue is proper in the U.S. District Court of Colorado under 28 U.S.C. §§ 1391 and 1400 as a substantial part of the events giving rise to Kong Company's claims occurred in this judicial district.

III. GENERAL ALLEGATIONS

A. The '053 Patent And RE '563 Patent

7. United States Patent No. 6,129,053, entitled "PET TOY PRODUCT WITH INTEGRAL TREATS RECEIVING RECEPTACLES" ("the '053 Patent"), was duly and legally issued by the United States Patent and Trademark Office on October 10, 2000. A true and correct copy of the '053 Patent is attached hereto as Exhibit A and incorporated by reference in its entirety.

8. The '053 Patent was reissued in U.S. Reissue Patent No. RE 39,563 on April 17, 2007 ("the RE '563 Patent"). A true and correct copy of the RE '563 Patent is attached hereto as Exhibit B and incorporated by reference in its entirety.

9. Kong Company is the owner of all rights, title and interest in and to the '053 Patent and the RE '563 Patent, and is entitled to sue for past and future infringement thereof.

B. The '061 Patent

10. United States Patent No. 5,947,061, entitled "PET TOY PRODUCT WITH INTEGRAL TREATS RECEIVING RECEPTACLES" ("the '061 Patent"), was duly and legally issued by the United States Patent and Trademark Office on September 7, 1999. A true and correct copy of the '061 Patent is attached hereto as Exhibit C and incorporated by reference in its entirety.

11. Kong Company is the owner of all rights, title and interest in and to the '061 Patent and is entitled to sue for past and future infringement thereof.

C. Triple Crown's Infringing Conduct

12. In general, the RE '563 Patent and '061 Patent cover inventions relating to pet toys having receptacles that receive treats.

13. Upon information and belief, Defendant has made, used, sold and/or offered for sale in the United States including, but not limited to, in Colorado, pet toy products (e.g., including, but not limited to, Defendants' Everlasting Treat Ball and Everlasting Fun Ball) that infringe one or more claims of the RE '563 and '061 Patents.

14. Upon information and belief, at the very least, Defendant had actual notice and knowledge of the RE '563 and '061 Patents by virtue of the letter sent to Defendant's counsel on April 13, 2007. Despite such notice, Defendant continues to make, use, sell and/or offer for sale in the United States pet toy products, which infringe one or more claims of the RE '563 and '061 Patents.

15. Upon information and belief, Defendant competes with Kong Company in this judicial district and elsewhere throughout the United States.

IV. FIRST CLAIM FOR RELIEF
(Infringement of RE '563 Patent)

16. Kong Company incorporates paragraphs 1 through 15 as though fully set forth herein.

17. Upon information and belief, Defendant has infringed and/or induced infringement of the RE '563 Patent in violation of 35 U.S.C. § 271 by making, using, selling and/or offering to sell in the United States pet toy products that are covered by at least one claim of the RE '563 Patent.

18. Upon information and belief, Defendant has contributorily infringed the RE '563 Patent in violation of 35 U.S.C. § 271 by offering for sale and selling components, which constitute a material part of the inventions claimed by the RE '563 Patent, with the knowledge that such components will be used to infringe the RE '563 Patent.

19. Defendant's infringement of the RE '563 Patent is willful and in wanton disregard of Kong Company's patent rights. Defendant's continued infringement of the RE '563 Patent has damaged and will continue to damage Kong Company unless Defendant is enjoined by this Court.

V. SECOND CLAIM FOR RELIEF
(Infringement of the '061 Patent)

20. Kong Company incorporates Paragraphs 1-19 as though fully set forth herein.

21. Upon information and belief, Defendant has infringed and/or induced infringement of the '061 Patent in violation of 35 U.S.C. § 271 by making, using, selling and/or offering to sell in the United States pet toy products that are covered by at least one claim of the '061 Patent.

22. Upon information and belief, Defendant has contributorily infringed the '061 Patent in violation of 35 U.S.C. § 271 by offering for sale and selling components, which constitute a material part of the inventions claimed by the '061 Patent, with the knowledge that such components will be used to infringe the '061 Patent.

23. Defendant's infringement of the '061 Patent is willful and in wanton disregard of Kong Company's patent rights. Defendant's continued infringement of the '061 Patent has damaged and will continue to damage Kong Company unless Defendant is enjoined by this Court.

VI. PRAYER FOR RELIEF

WHEREFORE, Plaintiff Kong Company prays for judgment in its favor and against Defendant Triple Crown as follows:

a. That Triple Crown, its agents, servants, officers, directors, employees, attorneys, privies, representatives, successors and assigns, parent and subsidiary corporations or other related entities, and any and all persons in active concert or participation with any of them, be temporarily, preliminarily and permanently enjoined from infringing and/or inducing others to infringe and/or contributing to the infringement of the RE '563 and '061 Patents;

b. That Kong Company be awarded damages in an amount to be determined at trial for all infringing activities, which are at least a reasonable royalty;

c. That Kong Company be awarded treble damages by reason of the willful, wanton, and deliberate nature of Triple Crown's infringement pursuant to 35 U.S.C. § 284;

d. That Kong Company be awarded its attorneys' fees as this is an exceptional case under 35 U.S.C. § 285;

- e. That Kong Company be awarded pre-judgment and post-judgment interest;
- f. That Kong Company be awarded costs and expenses of suit, including expert witness fees; and
- g. That Kong Company be awarded other and further relief as the Court deems appropriate and just.

VII. JURY DEMAND

Kong Company requests a trial by jury on all issues so triable.

DATED: July 16, 2007.

Respectfully submitted,

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